IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

OP.No. 26811 of 2002(P)

PETITIONER:

MOHAMMED SHAREEF T., S/O.AHAMMAD KOYA,
22/127, THANAL, THIRUVANOOR, KOZHIKODE,
NOW RESIDING AT RASHIDIYA TYPING, P.B.79998,
DUBAI, U.A.E.

BY ADV. SRI.SUNNY MATHEW.

RESPONDENTS:
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1. **THE PASSPORT OFFICER, KOZHIKODE.**
2. **THE SECRETARY TO GOVERNMENT OF INDIA,**
   MINISTRY OF EXTERNAL AFFAIRS, NEW DELHI.
3. **THE SECRETARY TO GOVERNMENT OF INDIA,**
   HOME DEPARTMENT, NEW DELHI.
4. **YUMNA KHALIFA MOHAMMED BAKER,**
   ALFUQAEI, YUMNA MANZIL, KUTTICHIRA,
   KOZHIKODE.
5. **THE CITY POLICE COMMISSIONER,**
   KOZHIKODE.

BY ADV. SRI.P.S.SREEDHARAN PILLAI, SCGSC,
SRI.BIJU ABRAHAM,
SRI.JOHN VARGHESE, ASSISTANT SG,
GOVT. PLEADER SMT. T.B. RAMANI.

THIS ORIGINAL PETITION HAVING COME UP FOR ADMISSION ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.26811 OF 2002

Dated this the 14th day of September, 2007

JUDGMENT

Petitioner, an Indian citizen, went over to UAE. He married the 4th respondent, a UAE national, cohabited and has a son, in relation to whose passport, this writ petition is filed. That child was born in India. Therefore, the petitioner is right in contending that the child is an Indian citizen by birth. The child was issued with a passport by the Indian authorities. A reading of the petition and the counter affidavit of the 4th respondent will disclose that thereafter controversies arose between the petitioner and his wife, the 4th respondent, resulting in irretrievable break down of the matrimonial tie and also certain negotiations, which, in turn, allegedly led to the petitioner issuing a cheque in favour of the 4th respondent, which turned out to be the subject matter of proceedings before the criminal court, on counts of offence punishable under Section 138 of the Negotiable Instruments Act.

2. On the allegation that the 4th respondent had obtained a duplicate of the passport of the child and flew him out of India, the petitioner attempted to point out that the 4th respondent was liable to be proceeded against and the authorities are liable to seize the duplicate passport of the child, which was obtained by the mother by fraudulent means.

3. Having regard to the totality of the facts and circumstances, while the matter would be entirely within the authority of the officials dealing with passport and also with ingress and egress through the boundary of India, I do not deem it necessary for this Court to issue any direction, particularly when the residence, custody etc. in relation to a child are matters that the parties had to sought out before the competent authorities which may have the authority to decide any such issue. I am of the firm view that any writ, if issued by this Court in this petition, would only complicate the future of the child in question.

In the result, the writ petition fails. The same is accordingly dismissed.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.26811 OF 2002

JUDGMENT

14th SEPTEMBER, 2007.

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